

State of California
BOARD OF EQUALIZATION
MOTOR VEHICLE FUEL TAX REGULATIONS

Regulation 1120. RETURNED SALES.

Reference: Sections 7315, 8101 and 8106.8, Revenue and Taxation Code.

(a) When motor vehicle fuel included in a supplier's taxable removals, entries or sales is returned to the supplier by the customer to whom it was sold and is delivered into a refinery or an approved terminal's storage tank, the supplier may either file a claim for refund with the State Controller or in lieu of the refund take a credit on its tax return. The credit memorandum covering the return of the motor vehicle fuel shall identify the gallonage returned as either volumetric gallons or temperature corrected gallons based upon how the tax was originally invoiced to the customer and shall separately state the motor vehicle fuel tax.

(b) It shall be presumed that the supplier purchased the motor vehicle fuel that was returned as tax-paid motor vehicle fuel if the credit memorandum includes motor vehicle fuel tax. For purposes of a refund or credit, it also shall be presumed that the subsequent removal of the motor vehicle fuel from a terminal rack by the supplier that received the returned motor vehicle fuel is made in the month that the motor vehicle fuel was returned.

(c) CONDITIONS TO ALLOW A CREDIT ON TAX RETURNS.

The credit will be allowed only if:

- (1) The returned motor vehicle fuel was delivered into a refinery or an approved terminal storage tank.
- (2) The credit is taken on a tax return filed within three months after the close of the calendar month in which the motor vehicle fuel is returned.
- (3) The supplier prepares a first taxpayer's report (as identified in Regulation 1161) when the motor vehicle fuel is returned.
- (4) A copy of the first taxpayer's report and the credit memorandum must be retained for inspection by the Board with the tax return on which the credit is claimed.
- (d) If the supplier fails to take credit on a tax return filed within three months after the close of the calendar month in which the motor vehicle fuel was returned, the supplier may only file a claim for refund with the State Controller to recover the tax. The claim for refund must be filed with the State Controller within three years from the date of return of the fuel.

Each claim for a refund must contain the following information with respect to the motor vehicle fuel covered by the claim:

- (1) The information required in Section 8102.
- (2) Volume and type of motor vehicle fuel.
- (3) Date on which the claimant received the returned motor vehicle fuel.
- (4) A copy of the first taxpayer's report that relates to the motor vehicle fuel covered by the claim.
- (5) A copy of the credit memorandum that returned the motor vehicle fuel.

History: Effective March 15, 1948.

Amended effective October 17, 1959.

Amended February 26, 1969, effective April 1, 1969.

Amended July 8, 1971, effective July 20, 1971.

Amended March 27, 2002, effective July 11, 2002. Subdivision (a) amended to refer to a supplier instead of distributor and to clarify how a supplier is to handle motor vehicle fuel returned by a customer, pursuant to statutory changes effective January 1, 2002. Deleted former subdivision (b), invoice correction, and sections (b)(1) and (b)(2). Added new subdivision (b) to clarify regulation presumptions. Added subdivision (c) to list conditions required to allow a credit on a tax return, and subdivision (d) to list information and documentation that is required to be included in a claim for refund.